



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Collins et al.)
Serial No: 08/238,080)
Filed: May 3, 1994)
For: TARGET AND BACKGROUND)
CAPTURE METHODS WITH)
AMPLIFICATION FOR AFFINITY)
ASSAYS)

Not Yet Assigned

Not Yet Assigned

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FEB 13 1995 APPLICATION BRANCH

SPECIAL PROGRAMS OFFICE
Attorney **DAC FOR PATENTS** 25,83511

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**RESPONSE TO NOTICE TO FILE MISSING PARTS AND
PETITION TO CONSIDER APPLICATION AS FILED UNDER 37 CFR 1.60**

Honorable Commissioner of Patents
and Trademarks
Washington, D.C. 20231

Dear Sir:

The subject application was filed May 3, 1994 as an original application. However, the application was filed with a copy of the Declaration filed with a predecessor application. As a result, the Patent Office has issued a Notice To File Missing Parts indicating that a proper oath or declaration is missing from the application papers. Applicants hereby respond to the Notice To File Missing Parts by petitioning the Patent Office to consider the subject as a continuation application filed under 37 CFR §1.60 to U.S. Serial No. 07/944,505 by the same inventors and now abandoned.

U.S. Serial No. 07/944,505 was under prosecution but went abandoned for failure to respond to an Official Action. However, Applicants' abandonment of the application was unintentional and Applicants have petitioned for its revival. Applicants' Petition To Revive was filed May 3, 1994, the same day as the subject application (U.S. Serial No.

08/283,080) was filed. (Applicants note that, as yet, the Commissioner has not acted upon Applicants' Petition To Revive and Applicants' Petition it has neither been granted nor denied.) In the event Applicants' Petition To Revive is granted, the subject application will comply with the requirements of 37 CFR §1.60 such that an original oath or declaration need not be filed with this application. In particular:

- (1) The prior application (U.S. Serial No. 07/944,505) was a complete application;
- (2) This application (U.S. Serial No. 08/283,080) is a true copy of the prior application;
- (3) The inventors are the same for both applications; and
- (4) Upon grant of Applicants' Petition To Revive U.S. Serial No. 07/944,505, this subject application will have been filed before the abandonment of the prior application.

Thus, Applicants submit it is appropriate for the Commissioner to grant Applicants' petition to consider the subject application as filed under 37 CFR §1.60 so that no original oath or declaration is required. In the alternative, Applicants' petition the Commissioner to suspend Applications' obligation to file an original oath or declaration until the Commissioner has acted upon Applicants' Petition to Revive.

Applicants are uncertain whether a fee is required with Applicants' petition. Applicants suppose their petition falls within the scope of 37 CFR §1.182 (Questions not specifically provided for) which requires the fee set forth in 37 CFR §1.17(h). Accordingly, Applicants submit herewith the fee specified in 37 CFR §1.17(h). In the event Applicants have erred in determining the amount owed, Applicants authorize charging or crediting such amount as is appropriate to Deposit Account No. 01-0528. (A duplicate copy of this paper is enclosed for the convenience of the Finance Branch.)

Also enclosed herewith is the Patent Office copy of the Notice To File Missing Parts to which this Petition responds.

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Applicants submit their petition is proper and request early consideration and grant

Respectfully submitted,

July 5, 1994

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Date of Deposit July 5, 1994

I hereby certify that this paper or fee is
being deposited with the United States Postal
Service "Express Mail Post Office to Addressee"
service under 37 CFR 1.10 on the date indicated
above and is addressed to the Commissioner of
Patents and Trademarks, Washington, D.C. 20231

Anna Franz
July 5, 1994